

A Primer on Australian Player Associations

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Abstract

The paper provides basic information on the operation of Australian player associations. In doing so it draws on the experience of player associations in English soccer and American baseball. England's Professional Footballers' Association acted as a beacon to various attempts by Australian soccer players to form associations. Its legal victory in Eastham, in 1963, where it challenged the retain and transfer system, has had a resonance in Australia with the 1971 decision of the High Court in Tutty which struck down the New South Wales Rugby League's retain and transfer system. This and decisions by lower courts in other states aided Australian player associations in their dealings with their respective leagues. Information is provided on various failed beginnings prior to World War I, and subsequent successful attempts to establish player associations in Australia, the formation of confederations both domestic and international, details of the respective membership of associations, the average income of members and a measure of their ability to provide services for members.

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Australia; cricket; football; history; player associations; sport.

Introduction

The Professional Footballers' Association was formed in December 1907 and has the distinction of being the oldest continuous players' association in professional team sports. Two earlier attempts, in 1893 and 1898, to form such an association failed owing to opposition from the Football Association and Football League (Dabscheck 1979; Harding 1991). These were not the first examples where players attempted to act collectively to enhance their employment rights. That distinction belongs to American baseball players who formed the National Brotherhood of Professional Baseball Players in 1885. It operated for six years, folding after a failed attempt to establish a Players' League in 1890 (Di Salvatore 1990).

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American baseball experienced four other unsuccessful attempts to establish player associations: the League Protective Players' Association (1900–1902), the Baseball Players' Fraternity (1912–1915), The National Baseball Players' Association of the United States (1922–1923) and the American Baseball Guild (1946) (Dworkin 1983).

In 1954, players formed the Major League Baseball Players' Association (MLBPA) over concerns of a pension plan being created by owners. For the first dozen years of its operation, its leader saw his role as one of ensuring that players understood the concerns of owners. In 1966, leading players made the decision to seek a more forceful leader. They appointed Marvin Miller, a former steel workers' union official who transformed the MLBPA into a strategically adept organisation which has negotiated substantial benefits for members (Miller 1991; Korr 1991, 2000, 2002). In a similar way, it took the Professional Players' Association several decades to learn how to achieve increased benefits for members. It was not until the 1950s and 1960s, under the stewardship of Cliff Lloyd, with the abolition of the maximum wage (which stood at £20 a week) in 1961 and the 1963 *Eastham* case¹ which found the retain and transfer system to be an unreasonable restraint of trade, that the Professional Footballers' Association obtained increased benefits for members and assumed a more prominent role in the governance of English football (Dabscheck 1979, 1986; Harding 1991; Harding with Taylor 2003).

The Professional Footballers' Association and the MLBPA are the tip of the iceberg of player associations in world sport. In both the United States and Europe, player associations operate in an increasing variety of sports.² What is probably less known is that Australia also has a long tradition of player associations.

The Situation in Australia

Table 1 provides information on various attempts to form player associations in Australia. In interpreting this table it is important to realise that, until recent decades, with the obvious exception of cricket, Australian sport was organised on a regional basis. Most leagues operated within the capital cities of the respective states of Australia. Technological changes associated with broadcasting — colour television, cable and pay television, the internet — induced various sports to transform themselves from city to national based competitions. Besides reaping seemingly never ending increases in broadcasting income, this transformation also enabled leagues and member clubs to obtain 'large' revenues from sponsors.

Table 1: Attempts to form player associations in Australian professional team sports

Failed at Formation		
1	1913	Australian Rules Football in Victoria
2	1921–22	Rugby League in New South Wales
3	1927	Australian Rules Football in Victoria
4	1927	Rugby League in New South Wales
5	1931	Rugby League in New South Wales
6	1944	Australian Rules Football in Victoria
7	1952–53	Rugby League in New South Wales
8	1959	Soccer in New South Wales
9	1960	Australian Rules Football in Victoria and South Australia
10	1960	Rugby League in New South Wales
11	1963	Soccer in Brisbane
12	1973	Australian Rules Football in South Australia
13	1974	Rugby League in New South Wales
14	1978	Rugby League in Brisbane
15	1985	Soccer in Victorian State league and National Soccer League
16	1988	Players, Umpires and Trainers in Australian Rules Football in Western Australia
17	1989	National Soccer League
18	1989–90	Australian Rules Football in South Australia
19	1991	Women's National Basketball League
20	1993	Australian Rules Football in Sydney
21	1994	Australian Test and Shield Players
22	1997	Australian Baseball League
Formation then Failure		
1	1914	Victorian Footballers' Council (Australian Rules Football)
2	1955–56	Australian Football Players' Union (Australian Rules Football)
3	1960	South Australian Soccer Players' Association
4	1964–65	Victorian Soccer Players' Association
5	1965/66	New South Wales Soccer Players' Association
6	1976–late '80s	Soccer Players' Association (Western Australia)
7	1977–82	Professional Cricketers' Association of Australia
8	1979–86	Western Australian Football League Players' Association (Australian Rules Football)
9	1990–92	Revamped Western Australian Football League Players' Association
10	1994–96	Australian Baseball Players' Association
11	1997–2000	Australian Netball Players' Association
12	2007–08	South Australian National Football League Players' Association
Still in Existence		
1	1973	Australian Football League Players' Association (Australian Rules Football)
2	1979	Rugby League Players' Association
3	1989	National Basketball League Players' Association
4	1993	Professional Footballers Australia (Soccer)
5	1995	Rugby Union Players' Association
6	1995	Australian Cricketers' Association
7	2002	Australian Netball Players' Association
8	2003	Australian Swimmers' Association*
9	2009	Australian Women's Basketball Player Association

* *Individual (not a team) sport.*

Table 1 distinguishes among three types of player associations. The first are those that failed at formation. Because of opposition from league and club officials, the apathy of potential members and the problems would be leaders experienced in finding the time to perform necessary leadership functions, such attempts fell at the first hurdle. In many cases they were little more than a call in the wilderness on the need for something to be done to improve the lot of players. There have been 22 such attempts, the first occurring in Australian Rules Football in Victoria, before World War I. The next category is where an association is established, but after a short period, usually because of an inability to develop a bargaining relationship with its respective League and member clubs, it folds. There are twelve examples of this second category. The final category is those player associations which have formed and are still in existence, of which there are nine. The oldest continuous body is the Australian Football League Players' Association (AFLPA), which will celebrate its fortieth birthday next year.

The Netballers are affiliated to the Australian Workers Union and the male basketballers to the Media, Entertainment and Arts Alliance, to, what might be called, two established or mainstream Australian unions. Note that female players in Netball, Basketball and Swimming (which is a mixed sport) have formed associations. In addition, in 2008, the Australian Cricketers' Association (ACA) altered its rules to enrol and represent female players who play for Australia in international fixtures, the Southern All Stars. Professional Footballers Australia, in 2010, similarly decided to represent female players in the W-League and the national team, the Matildas.

England's Professional Footballers' Association provided inspiration (and/or communications were made with it) in all of the nine attempts to establish player associations in Australian soccer. Former English or United Kingdom players, several of whom had been members of the Professional Footballers' Association who migrated to Australia, either wrote to or referred to the English/British body in attempting to establish an Australian players' body. In the case of the Victorian 1964/65 attempt, Mike de Bruyckere, the association's leader and a former leading Dutch player also contacted the Dutch players' association (Dabscheck 1994; Hay 1966).

The Professional Footballers' Association and the Scottish Football Players' Association also played a role in the formation of the Victorian Football Players' Union in Australian Rules Football in 1955/56. Former St. Kilda player Tom McNeil met Jimmy Guthrie, the Professional Footballers' Association President from 1946 to 1957,³ and John Hughes, the Secretary of the Scottish union on a visit to Glasgow in 1954 and 1955. Conversations with them, especially John Hughes, inspired McNeil to form a similar body for Australian Rules players in Victoria (Dabscheck 2011).

In 2007, all of the player associations listed in the third part of Table 1, other than the basketballers,⁴ formed a confederation, the Australian Athletes' Alliance, to co-ordinate and represent their mutual interests. The Australian Jockeys' Association joined the Alliance in June 2010. The Alliance has made representations to governments and government agencies on a number of matters ranging from player privacy, gambling, player conduct/behaviour, coverage by industrial

tribunals, sports reporting and anti-doping.⁵ Its most significant achievement has been a case where the High Court, in 2009, found that agent fees, and other business expenses, were a legitimate income tax deduction.⁶ In 2010, it produced a report on the shares of income received by players in seven Australian sports (the four football codes, cricket, netball and swimming), benchmarked to major North American sports and European Football (soccer) (Dabscheck 2010: 80).

The respective associations in soccer, cricket, and rugby union are members of world wide confederations which represent their mutual concerns in dealings with international sports' governing bodies. Professional Footballers Australia is a member of the International Federation of Professional Footballers' Associations (FIFPro) (Dabscheck 2003), formed in 1965, which, as of May 2012, has 46 members, 9 candidate members and 9 observers. Professional Footballers Australia heads up FIFPro Asia to spread the principles of player associations to Asia. The ACA is one of seven members of the Federation of International Cricketers' Associations, formed in 1998. Its CEO is Tim May, a former CEO of the ACA. The Rugby Union Players' Association (RUPA) is affiliated to the seven member International Rugby Players' Association, formed in 2001.

On 15 November 2011, various confederations, including the three to which Australian players belong, and individual player associations formed a supra international confederation of player associations under the auspices of the Swiss-based Uni Global Union. In the Nyon Declaration this body pledged itself 'to champion athletes' rights.'⁷ With sport being at the forefront of globalisation, it will be interesting to see what will result from this venture into player global collective action.

In the discussion which follows, the focus will be on the big five of Australian sport, the four football codes and cricket. All of these sports operate under collective bargaining agreements. Except for football (soccer) which recognises the Federation International de Football Associations (FIFA) regulations regarding the transfer of players internationally, all of the codes have eschewed transfer systems, which were traditionally a mainstay of Australian sport (it should be remembered that Rugby Union was an amateur code until 1995). The leading Australian case which brought about an end to retain and transfer systems was *Buckley v Tutty*,⁸ where the High Court, in 1971, found the New South Wales Rugby League's system to be an unreasonable of restraint of trade.

Dennis Tutty, who was an unskilled labourer with limited income, did not have a player association to support his application — it would be another ten years before a players' association was formed in Rugby League — in comparison to George Eastham who received support from the Professional Footballers' Association. Tutty financed the case himself on the income of an unskilled labourer; possibly a unique event in the annals of Australian jurisprudence.⁹ The High Court drew on the precedent of the English Court's decision in *Eastham*. If nothing else, this points to the debt that all Australian athletes owe the Professional Footballers' Association for the legal challenge it initiated half a century ago.

As a result of *Buckley v Tutty* (and other similar decisions by the courts) Australian sports interchanged what might be called the English employment arrangement of the transfer system for the American systems of salary caps and

revenue sharing.¹⁰ Australian Rules Football, Rugby League and soccer employ salary caps, while cricket and Rugby Union make use of revenue sharing. The Australian Rugby Union is seeking to impose a salary cap, which is a matter in dispute in current negotiations with RUPA. Rugby League and soccer have ongoing Collective Bargaining Agreements, Australian Rules Football has just entered into a new five year deal, and cricket and Rugby Union are in the process of negotiating new deals. With respect to the latter, negotiations have been dragging on for more than a year.

Table 2 provides information on the membership, average income of players, the number of staff and staff to member ratio of player associations in Australia's five major sports.¹¹ The last three measures provide approximations of the relative strength and/or success of the respective player associations. The membership data for the ACA, and subsequent information concerning average income, does not include the 15 (female) members of the Southern Stars. The data for Professional Footballers Australia is confined to the major domestic competition the A-League. Professional Footballers Australia has another 170 members comprising players of the national team, the Socceroos, the majority of whom play in overseas (mainly in European leagues), other Australians playing overseas, female players in the national team, the Matildas and W-League and academy (young, or apprentice) players. The Rugby League Players' Association (RLPA) also looks after the interests of youth players of respective National Rugby League (NRL) clubs; 320 in all at 20 players per club. The average income for the RLPA is based on the salary cap income of \$4.5 million for the top 25 players of each club. It would be lower if the additional players who fill in for players injured, sick, suspended and so on, who receive lower levels of compensation, were included.

Table 2: Membership, average income and staff of major Australian player associations

	Year	Members	Average Income	Staff	Staff to Member Ratio
ACA	2011/12	180 (25 CA + 155 State players)	\$1.1m CA players; \$135,000 State players	9	1:20
AFLPA	2012	830	\$250,000	22	1:38
PFA	2011/12	230	\$130,000	11	1:21
RLPA	2012	500	\$180,000	2	1:250
RUPA	2012	175	\$199,000	4	1:40

Source: Information provided by respective Player Associations.

The membership of the AFLPA has increased in the last two years, by approximately 100, following the entry of two new clubs, the Gold Coast Suns and the Greater Western Sydney Giants, increasing the size of the league from 16 to 18 teams. Similarly, the membership of RUPA has expanded by 70 following the entry of two new teams in recent years, the Western Force in 2006 and the Melbourne Rebels in 2011. The Australian contingent of the competition (with teams from New Zealand and South Africa¹²) has grown from three to five teams.

The A-League initially had 8 teams; at one stage this increased to 11, and seems to have settled at 10.

The agreements that have operated in cricket have traditionally made a distinction between Cricket Australia contracted and State players. The former are players who represent Australia in various international competitions. For the 2011/12 season the average income of those 25 players was \$1.1 million. For the 155 state players, who participate in different versions of the game, the average income was \$135,000. The average for the two groups combined is slightly shy of \$270,000. The average income for AFLPA members was \$250,000, for Professional Footballers Australia \$130,000, the RLPA \$180,000 and RUPA \$199,000. To put these figures into some perspective, average income for all employees (that is full time and part time) in Australia for November 2011 was \$53,730. For full time adults the average was \$72,254.¹³ Prior to the advent of player associations, most players received levels of income that were below minimum, let alone average, wage levels that were provided for workers in the general workforce by Australia's system of industrial tribunals (Dabscheck 2011).

The number of staff¹⁴ employed provides an indicator of the financial health and ability of player associations to provide services for members. The AFLPA has the most staff, with 22, and provides a wide range of services to members. It has been able to reap economies of scale with the addition of extra members following the inclusion of two new teams. Its staff-to-member ratio is 1:38.¹⁵ Professional Footballers Australia has 11 staff and the ACA 9. They both have similar staff-to-member ratios, close to 1:20. Despite an approximately 40 per cent increase in its membership between 2005 and 2011, RUPA has had no concomitant increase in its staff. While it has a staff-to-member ratio similar to that of the AFLPA, it is somewhat stretched in its ability to service members. Its problems, however, pale into insignificance in comparison with the RLPA, which only has two staff to serve 500 'prime' members, and a further 300 plus who play in junior competitions.

Conclusion

Australia has a long tradition of player associations. Since the beginning of the twentieth century, different generations of players in a variety of sports have turned to collective action in an attempt to defend and advance their employment rights. It is in the last two decades that Australian player associations have come of age, operating in a number of sports and entering into collective bargaining deals with their respective leagues and clubs. The Australian Athletes Alliance provides a forum for player associations to pursue issues of mutual concern and a means to learn from each other how to respond to problems. Individual associations are also members of and have been active in international player association confederations. They have negotiated wage levels for members which substantially exceed average incomes in Australia. Other than for the two Rugby bodies, player associations employ a relatively large number of staff who provide a broad range of services to members. It might not be unreasonable to conclude that Australian player associations have reached a certain degree of maturity. They are probably at the same stage of development as the Professional Football-

ers' Association in the 1960s and 1970s, and MLBPA in the 1970s and 1980s. This is not to say that there will not be new problems to confront and overcome. Industrial life, like competition on the field, is one of unremitting struggle. This has been, and always will be, the lot of player associations, not only in Australia, but elsewhere.

Notes

1. *Eastham v Newcastle United Football Club* [1964] Ch 413.
2. The discussion here ignores developments in Latin and South America, Asia and Africa.
3. For details on Jimmy Guthrie, Dabscheck (1979) and Harding (1991), see Jimmy Guthrie (1976) *Soccer Rebel: The Evolution of the Professional Footballer*, Pentagon, London.
4. The female basketballers did not affiliate when they formed in 2009.
5. For details see its website <http://www.athletesalliance.org.au/submissions.html>.
6. *Spriggs v Commissioner of Taxation* (2009) 239 CLR 1.
7. Uni Global Union, Press Release and Nyon Declaration, 15 November 2011.
8. *Buckley v Tutty* (1971) 125 CLR 353.
9. Dabscheck, B. 'Righting a wrong: Dennis Tutty and his struggle against the New South Wales Rugby League', *The Australian New Zealand Law Journal*, 4(1), 2009, pp. 145–160. The article also provides details on the jurisprudence that flowed from this decision across the broad gamut of Australian sport.
10. Australian Rules Football also adopted the American practice of drafting for new players (the external draft) and extended it to existing players (the internal draft). In its most recent Collective Bargaining Agreement, for 2012 to 2016, free agency is available for players who have player with a club for 8 years and for those delisted who are not in the top 25 per cent of income earners in their club.
11. Both Professional Footballers Australia and the RLPA represent players of the (single) respective New Zealand teams which play in the A-League and NRL.
12. Rugby Union players in Australia compete in a 15 team league with 5 teams each from Australia, New Zealand and South Africa. Rugby also involves the playing of international fixtures. The average income for players presented in Table Two is an average of both the regular league competition and internationals.
13. Australian Bureau of Statistics, Catalogue Number 6302.0, Average Weekly Earnings, Australia, November 2011.
14. The data here is broadly indicative. Some staff are employed on so many days a week.
15. According to the MLBPA website on 9 May 2011, The MLBPA has 48 staff who serve approximately 1,200 members; a staff to member ratio of 1:25. The PFA has 4,000 members. Information is not available from its website on how many staff it employs.

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